

**REMARKS**

Claims 1-16 are pending, and the independent claims are claims 1 and 12. The status of the claims according to the final Office Action is the same as the status according to the previous Office Action. Applicant appreciates the telephone interview between the Examiner and Applicant's attorney on September 26, 2005. As discussed with the Examiner, Applicant will disregard the incorrect Office Action Summary that accompanied the final Office Action.

Independent claim 1 is again rejected as being obvious under 35 U.S.C. § 103(a) from *Feldis* (U.S. Patent Application No. 2003/0007078A1) in view of *Matsumoto* (U.S. Patent Application No. 2002/0078157A1). The independent claim 12 is again rejected as anticipated under 35 U.S.C. § 102(e) from *Matsumoto* (U.S. Patent Application No. 2002/0078157A1).

Applicant notes that this is the second RCE in this case. The previous RCE was filed on February 25, 2005 amending various claims including independent claims 1 and 12. The *Matsumoto* reference was introduced in response to the first RCE. Applicant continues to respectfully submit that the previously claimed invention is novel in view of *Matsumoto* and in view of the other cited reference. However, in order to expedite prosecution of the present application, Applicant now amends independent claims 1 and 16. No new matter is introduced, and all of the amendments are fully supported by the specification as originally filed.

**Amended Claims 1 and 12 are Not Obvious From *Feldis* and *Matsumoto***

Applicant respectfully submits that the independent claims are now more clearly distinguishable from the cited art. Please note that claim 1 no longer contains the "either ... or" language. Much of the material in amended claim 1 is from page 7 of the application, and from original claim 3.

Applicant notes that claim 3 was rejected in the final Office Action primarily based upon paragraph 38 of *Feldis*, which states that if the picture lacks the tag then the picture is editable by

the user (i.e. “field does not contain any tag, then . . . the user may edit”). That is the opposite of the present amended independent claims, which state that the picture is editable only if the picture does contain the tag.

Regarding *Matsumoto*, that patent discloses a system and method for acquiring an image using the camera 6, which is then sent to the wireless terminal 4, and a user of the wireless terminal 4 is then able to make decisions regarding how the image will be edited. That editing is not done in the wireless terminal 4, and instead the editing is done by attaching at least one editing tag to the image, so that the image can be sent to a server 3 which will edit the image according to the tag. Thus, the tag in *Matsumoto* does not indicate whether a picture is editable by a user, but rather *Matsumoto*’s tag merely carries editing instructions from a user. Paragraphs 26 and 27 of *Matsumoto* discuss a user who determines whether a tag is input, and then the tag’s content controls editing of the picture. In contrast, present amended claim 1 states that editing will only occur if the free-to-edit tag is included in the picture received by the user. Thus, according to the present invention, the user does not decide if the received picture contains the tag. Unlike in *Matsumoto*, if the tag is absent from the received picture, according to the present claimed invention, then the user is prevented from editing.

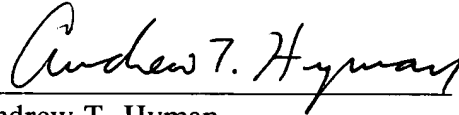
The material now inserted into claims 3 and 14 is discussed, for example, in the first full paragraph on page 11 of the application. And, the material now inserted into claims 2 and 13 is discussed, for example, in the first full paragraph on page 8 of the application.

### CONCLUSION

Because the cited references do not teach or suggest critical elements of the present independent claims 1 and 12, it is respectfully submitted that the present claims are novel and patentable. Early allowance of claims 1-16 is earnestly solicited. Applicant would be grateful if the Examiner would please contact Applicant’s attorney by telephone if the Examiner detects anything in the present response that might hinder a speedy allowance.

PATENT  
Attorney Docket No. 944-003.123  
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Respectfully submitted,

A handwritten signature in cursive script, reading "Andrew T. Hyman". The signature is written in dark ink and is positioned above a horizontal line.

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